

ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

OFFICER-INVOLVED SHOOTING – 040-23

Division **Date** **Duty-On (X) Off () Uniform-Yes (X) No ()**

Southeast 8/18/23

Officer(s) Involved in Use of Force **Length of Service**

Officer A 10 years, 3 months
Officer B 1 year, 1 month

Reason for Police Contact

Officers responded to a radio call for “A possible ADW suspect there now.” When officers arrived, the Subject produced a replica handgun and pointed it at them, resulting in an Officer-Involved Shooting (OIS). The Subject was struck by gunfire and transported by the Los Angeles Fire Department (LAFD) to the hospital, where he was treated for gunshot wounds and discharged the same day.

Subject(s) **Deceased ()** **Wounded (X)** **Non-Hit ()**

Male, 29 years of age.

Board of Police Commissioners’ Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on 7/30/24.

Incident Summary

On August 18, 2023, at approximately 0635 hours, Witness A opened the rear gate of his/her residence, which opened to an east-west alley, as he/she was leaving for work. Witness A observed his/her neighbor, later identified as the Subject, sitting on a chair in the alley, waving a handgun around and pointing it in the air. Witness A drove out of the alley and called 911 to report the Subject's actions.

In response to Witness A's call, at approximately 0643 hours, Communications Division broadcast a Code Three radio call for "A possible ADW suspect there now."

At the start of their shift, Officer A heard the broadcast while in line to acquire their equipment at the kit-room. According to Officer A, he/she waited to see if anyone would take the call. Approximately 25 seconds after the broadcast, Officer A requested the call.

After acquiring their equipment, Officers A and B walked outside to the parking lot, located their police vehicle, and loaded their equipment before responding Code Three to the call.

According to Officer A, who was driving, he/she shut down his/her Code Three response when he/she turned south in the area. Officer A added that he/she did this out of a tactical concern, so as not to alert the suspect to their presence and to avoid a possible ambush. As the officers turned east, Officer B broadcast that they were "Code Six in the area." While searching for the suspect, Officers A and B continued east and turned south. They then turned east before turning north in the north-south alley.

As Officers A and B drove past an intersecting east-west alley, Officer A observed a male (the Subject), wearing a red shirt and gray pants, standing approximately 80 feet west of them. Officer A told Officer B, "Oh fuck, dude. He's right there, I'm gonna turn around." She continued driving north and conducted a U-turn while stating, "Let me just make sure."

While driving south through the alley, Officer A communicated to Officer B, "He's gonna be in the east-west alley." As Officer A turned west into the alley, he/she stated, "Right there!" The Subject can be seen in view of the officers' DICVS standing approximately 80 feet away, facing the officers.

As Officer A drove toward the Subject, he/she told Officer B they would prone him out and stopped their vehicle approximately 19 feet from the Subject. Officer A explained that he/she drove toward the Subject to get a better view of him and because he/she was concerned that the Subject would have a lead if he decided to flee.

Simultaneously, the Subject sat on a small white mattress on the north side of the alley. Despite the Subject being the only person in the alley, Officer A was unsure if he was the suspect, because he was wearing a red shirt, and the radio call described the

suspect as being shirtless.

The following is an account of Officers A, B, and the Subject's actions during the incident. Although described in chronological order, many of the officers' and the Subject's actions occurred simultaneously.

Immediately upon sitting down, the Subject faced the officers, reached toward his right waistband with his right hand, and produced a replica handgun (hereafter handgun). As that occurred, Officers A and B immediately exited their vehicle and unholstered their pistols. The officers stood behind their respective ballistic doors and used them as cover, while ordering the Subject to show his hands. The officers then repeatedly ordered the Subject to drop the gun.

The Subject briefly adjusted his grip of the handgun with his left hand and held it in a reverse grip with the web of his right hand against the front strap. He rested his right elbow on his right knee and pointed the muzzle of the handgun to the west.

The Subject then brought the handgun back to his lap. He again adjusted the handgun with his left hand and held the lower half of the grip between his right thumb and forefinger with the muzzle oriented away from him. While maintaining his grip, he raised the handgun to shoulder height and momentarily pointed the muzzle in Officer A's direction. He then immediately lowered it to meet with his left hand.

With his elbow still resting on his knee as a pivot point, the Subject rotated his forearm from between his legs to outside of his right leg. As he did so, he again pointed the muzzle of the handgun in Officer A's direction. He then immediately lowered it and pointed the muzzle toward the ground between his feet.

Officer A retrieved his/her hand-held radio with his/her right hand and, while holding his/her pistol with his/her left hand, broadcast for a backup. He/she immediately holstered his/her radio and reacquired a two-hand grip on his/her pistol.

While Officer A was broadcasting, the Subject moved the handgun behind his right knee, and acquired a full pistol grip with the web of his right hand against the tang. The Subject then placed his left hand on the mattress to brace himself and began to stand, while bringing the muzzle of the handgun forward with his right palm facing down.

As the Subject stood, he began to raise the handgun, while rotating his right palm upward and extending his arms out away from his body. At that moment, Officer A fired one round at the Subject, striking him in the right hip. The Subject fell back onto his buttock and braced his fall with his right hand, which was still holding the handgun. The Subject raised his upper torso off the ground and shifted his weight to his left hip.

Simultaneously, the Subject moved the handgun across his torso from right to left, and while doing so, pointed it in the direction of Officers A and B, respectively. He then rotated his right wrist and pointed the muzzle of the handgun behind and above his left

shoulder. As that occurred, Officer A fired a second round at the Subject, striking him in the right upper arm. The officers continued to order the Subject to “drop the gun,” and moments later, the Subject tossed the handgun between the mattress and a metal gate.

Officer A’s Account of the Incident:

According to Officer A, he/she saw the Subject armed with a firearm.”

First Round:

Officer A indicated that the Subject stood up and pointed the gun at him/her. In fear that the Subject was going to shoot him/her or his/her partner, Officer A aimed his/her pistol at the Subject’s stomach area and fired one round.

Second Round

Officer A stated that he/she assessed and saw the Subject fall to a seated position on the mattress. With the gun held near his abdomen, the Subject again pointed the muzzle at him/her. In fear that the Subject would shoot him/her, Officer A aimed his/her pistol at the Subject’s torso and fired a second round.

After firing her second and final round, Officer S observed the Subject toss the gun on the ground next to the mattress. He/she then immediately broadcast, “Shots fired, Officer Needs Help! We’re gonna be in the east-west alley.”

Officer B’s Account of the Incident

According to Officer B, he/she first observed the Subject when Officer A drove west into the east-west alley.

Officer B observed that the Subject was moving the handgun toward them and described the Subject as “Standing, facing us and still non-compliant.” Officer B then heard Officer A fire two rounds. Although he/she did not see the Subject point the gun in his/her direction.

Timeframe Analysis

Force Investigation Division Video Technology Unit completed a Sound Graph Analysis of Officer A’s BWV footage and determined that both rounds were fired in 2.27 seconds.

Background Analysis

Upon inspecting the scene and relevant video evidence, FID investigators determined that at the time of the OIS, Officer A stood behind the driver side ballistic door of his/her vehicle and the background of both rounds was metal fencing on the north side of the alley.

Post-OIS

The Subject shifted over and sat on top of the mattress. As the officers ordered the Subject several times to "get on the ground," he briefly leaned his torso forward, placed his forehead on the ground, and sat up again. Officer B ordered the Subject to move left and to place his hands on top of his head. The Subject then stood up and took four steps toward the middle of the alley while facing the officers. Both officers continued to communicate with the Subject and ordered him to turn around. The Subject briefly moved his hands to his head before lowering them and softly jumping four times in place. He then turned and walked two steps west before collapsing backward on the ground. Moments later, the Subject attempted to stand, but he immediately fell to the ground again. Officer B ordered the Subject to stay where he was, but he stood up and limped ten steps west toward the end of the alley.

As the Subject moved west through the alley, Officers A and B advised each other that the Subject was away from the handgun. Officer B told Officer A that he/she would follow the Subject. Both officers then moved west through the alley, with Officer A slightly behind Officer B. As he/she passed the white mattress, Officer A momentarily stopped and collected the Subject's handgun as Officer B continued behind the Subject. Officer A followed Officer B while holstering his/her pistol, then secured the Subject's handgun by placing it in his/her right rear pants pocket.

According to Officer A, he/she followed the Subject because he/she wanted to apprehend him and was concerned that he was injured and in need of medical attention. He/she was also concerned due to the Subject's violent behavior.

Officer B indicated that he/she knew the Subject was no longer in possession of the gun and was bleeding. He/she wanted to maintain a line of sight with the Subject in case he fell due to his injuries.

As the Subject reached the mouth of the alley, he collapsed on the sidewalk facing the officers. At 07:05:35 hours, Officer B approached the Subject at gunpoint and ordered him to turn around and show his hands. According to Officer B, he/she attempted to take the Subject into custody, because he/she believed he was no longer armed. He/she expounded, "And then because also, he was on the - - on the ground, so we kind of had advantage. I was standing up still at this point. And so I felt it would be a bit - - it would be easier, since I'm already there, to take him into custody."

While holding his/her pistol in his/her right hand, Officer B used his/her left hand to grab the Subject's right wrist but was unable to control it, because he pulled his arm away. Officer B then holstered his/her pistol and used both hands to grab the Subject's right arm. The Subject again pulled his arm back causing Officer B to lose his/her grip. As Officer B reacquired a grip on the Subject's right wrist with both hands, he/she was joined by Officer A, who moved to the Subject's left side. Officer A immediately grabbed the Subject's left arm with both hands, moved it behind his lower back, and ordered him multiple times to get on his stomach.

In the ensuing 70 seconds, the Subject actively resisted the officers' efforts to handcuff him by pulling his arms away from them. Officers A and B repeatedly ordered the Subject to get on his stomach. The officers grabbed the Subject's arms and utilized a combination of firm grips and physical force to place him on his stomach, but they were unable due to his resistance. Additionally, Officer A utilized body weight by placing his/her left knee on the Subject's left hip and thigh. At 07:06:55 hours, the officers placed the Subject's arms behind his lower back while he was in a seated position, and Officer B completed handcuffing.

When interviewed, Officer A indicated that he/she applied firm grips to the Subject to control his left arm and handcuff him, but the Subject was bloody, slippery, and therefore, it was hard to maintain a grip of his arms. Officer A added that he/she also applied body weight to the Subject's left leg to prevent him from standing. According to Officer B, he/she applied firm grips to the Subject's right arm to handcuff him, but he resisted by pulling his arm away from him/her.

Immediately upon handcuffing the Subject and at Officer A's direction, Officer B broadcast that they had a Code Four, requested additional units continue to respond, and updated their location.

Meanwhile, the Subject continued to resist by lifting his buttocks off the ground and flailing his legs. In response to the Subject's actions, Officer A rolled him onto his stomach and applied body weight by placing his/her left knee on the back of the Subject's thighs.

When interviewed, Officer A stated, "And then from there, I was just trying to use body weight on his leg until we were able to turn him around, because he was trying to get up and his legs were kind of flailing." Officer A added, "I mean, he's handcuffed, so technically he is in custody; however, he was still actively fighting. He wanted to get away. He wanted to kick. He was still fighting. How I felt he was acting, his behavior was still abnormal. It wasn't where you're handcuffed and, okay, I'm going to calm down because I know that it's over."

Officer A stated that he/she did not feel safe placing the Subject into the recovery position or rendering medical aid until backup officers arrived, because he was still violently resisting, kicking, and trying to stand up.

At 07:08:50 hours, the first backup unit, Officers E and F, arrived at scene. Officer A immediately directed them to set up crime scene tape and canvass for witnesses, while he/she remained with the Subject.

Sixty-eight seconds later, after donning gloves, Officer J relieved Officer A and placed the Subject in a right lateral recovery position with the assistance of Officer K. Officers J and K checked the Subject for injuries and determined that his wounds were on the right side of his body. The officers turned the Subject to his left side and observed gunshot wounds to his right hip and right arm.

According to Officers J and K, they assessed the Subject and determined he was alert, did not appear to be in pain and was not having difficulty breathing. Officer J noted that the Subject was bleeding but described him as not being in “immediate danger.” Officer K also noted that the Subject was bleeding but described it as “not much.” Based on the Subject’s condition, neither officer believed there was a need for them to render immediate medical aid.

Approximately two minutes later, Officer K donned gloves, searched the Subject, but found no additional weapons.

Approximately ten minutes after the OIS, the LAFD RA arrived at scene and paramedics medically assessed the Subject. During their assessment, the Subject was alert, oriented, had stable vitals, and his gunshot wounds had either stopped or were slowly bleeding. At 0724 hours, the RA transported the Subject to the hospital, where he was treated by a doctor.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	No	Yes	No	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners’ Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC’s review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officer A and B’s tactics to warrant a tactical debrief.

B. Drawing and Exhibiting

The BOPC found Officers A and B’s drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officer A and B’s non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC found Officer A's lethal use of force to be in policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers. (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Use of De-Escalation Techniques: It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings: Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

Proportionality: Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing: Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly: It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Objective Reasonableness: Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;

- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

Drawing or Exhibiting Firearms: Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

Use of Force – Deadly: It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

The Department's Evaluation of Deadly Force: The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

Rendering Aid: After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

Warning Shots: It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

Requirement to Intercede When Excessive Force is Observed: An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

Definitions

Deadly Force: Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Feasible: Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent: Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.” The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;

- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Totality of the Circumstances: All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the suspect leading up to the use of force.

Vulnerable Population: Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Warning Shots: The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

A. Tactics

Tactical De-Escalation Techniques

- *Planning*
 - *Assessment*
 - *Time*
 - *Redeployment and/or Containment*
 - *Other Resources*
 - *Lines of Communication*
- (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his/her or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Officers A and B were not regular partners but had worked together on approximately five prior occasions. They had prior discussions regarding tactics including foot pursuit concepts, pedestrian stops, traffic stops, handling radio calls, contact and cover roles and de-escalation techniques. While en route to the radio call, Officer B read the comments of the call aloud to gain an understanding of incident and further stated that whoever was closer would be the contact officer. Officer A’s thoughts were to respond, assess and request resources as needed. Upon locating the Subject in the alley, Officer A communicated to Officer B they would conduct a high-risk pedestrian stop by stating, “were proning him out.”

Assessment – Upon exiting the vehicle, Officers A and B immediately recognized the Subject was in possession of a handgun and gave him numerous commands to

drop the handgun. The officers assessed that the Subject was not complying with the commands of two uniformed officers in a black and white police vehicle. The Subject continued to manipulate the handgun until he pointed the handgun in the officer's direction, leading to the OIS.

Time, Redeployment, and/or Containment – Encountering the Subject armed with a handgun, Officers A and B exited their police vehicle, kept distance and used the ballistic doors as cover. The cover and distance from the Subject afforded the officers time to communicate with the Subject by issuing him commands in an attempt to gain the Subject's compliance. Following the OIS, the Subject tossed the handgun between the mattress and the metal gate. According to Officer B, he/she briefly left the cover of his/her door and moved to the front passenger wheel of the police vehicle as he/she believed the Subject tossed the gun to a place where he would have struggled to reach it and wanted to render medical aid. Officer A observed Officer B's positioning and directed him/her to redeploy back behind cover.

Following the OIS, the Subject continued to defy the officers' commands and walked down the alley. The officers noted that the Subject was no longer in possession of the handgun and appeared affected by his injuries, as he fell twice when walking away from them. According to Officer A, he/she wanted to apprehend him as he/she was concerned for his injuries as well as the safety of community members in the area. According to Officer B, the Subject could not flee due to his injuries and wanted to render medical aid to him.

Other Resources – After observing the Subject armed with a handgun, Officer A requested a backup prompting the response of additional resources. After the OIS, Officer A broadcast a help call and an updated location. Once the Subject was placed in custody, Officer B requested the response of LAFD personnel to provide medical attention.

Lines of Communication – While responding to the location, Officer B read the comments of the call to Officer A. As the officers drove in the alley, Officer A observed the Subject and communicated to Officer B his/her observations and intent to detain him by placing him in a prone position. As Officers A and B exited the police vehicle, they both unholstered their service pistols and gave commands to the Subject, directing him to drop the handgun. Due to the Subject pointing the handgun at the officers, the use of de-escalation techniques was no longer feasible prior to the OIS.

After the OIS and after the Subject was no longer in possession of the handgun, the officers continued communicating with the Subject by instructing him to get on the ground. After the Subject collapsed at the mouth of the alley, the officers continued to communicate with the Subject to get on his stomach as they used non-lethal force to take him into custody.

During the review of the incident, the following Debriefing Topics were noted:

Debriefing Point No. 1: Handcuffing Protocols

After the OIS, Officers A and B used non-lethal force to take the Subject into custody. After handcuffing the Subject, he was not immediately searched or placed in a seated, standing or recovery position.

After being handcuffed, the Subject continued to resist by lifting his buttocks off the ground and flailing his legs. In response to the Subject's actions, Officer A rolled him onto his stomach and applied bodyweight by placing his/her left knee on the back of the Subject's thighs. Officer A stated he/she did not feel safe placing the Subject into the recovery position or rendering medical aid until backup officers arrived because he was still violently resisting, kicking and trying to stand up. At 07:08:50 hours, the first backup unit, Officers E and F, arrived at scene. Officer A immediately directed them to protect the crime scene and identify possible witnesses. Just over a minute after the first backup unit arrived, Officer J arrived and relieved Officer A and placed the Subject in a right lateral recovery position with the assistance of Officer K. Officers J and K checked the Subject for injuries and determined that his wounds were on the right side of his body. The officers turned the Subject to his left side and observed gunshot wounds to his right hip and right arm. Approximately two minutes later, Officer K searched the Subject but found no additional weapons. The investigation determined the Subject was in the prone position for two minutes and 27 seconds. The Subject was rolled into the left lateral recovery position one minute and 12 seconds after the first backup units arrived.

The UOFRB noted the Subject physically resisted the officers as they attempted to take him into custody and Officers A and B struggled with him for several minutes, utilizing firm grips, physical force and bodyweight before being able to finally handcuff him. Although the UOFRB came to the ultimate recommendation of a Tactical Debrief, some members of the UOFRB opined the officers deviated from policy but with justification. The majority opined that although the Subject was handcuffed, he was not in custody as he continued to resist after being handcuffed. The majority noted the Subject was searched and placed in a recovery position once backup units arrived and opined there was no substantial deviation from handcuffing protocols because the Subject was searched and placed in a recovery position within the reasonable expectation of immediacy. The minority cited the policy which states, "Once the person is handcuffed, officers shall immediately search the waistband area and as soon as practical place the individual in an upright seated position, or in the recovery position." The minority concurred that placing the Subject in a recovery position was conducted as soon as practical but argued the Subject was not immediately searched after being handcuffed. The minority opined that although not conducting an immediate search of the waistband was a substantial deviation from policy; it was justified based on the articulation provided by the majority. In conclusion, all UOFRB members concurred handcuffing protocols should receive a recommendation of Tactical Debrief and did not meet the standards

for an administrative disapproval.

Based on the totality of the circumstances, the BOPC determined Officers A and B's lack of immediate search of the Subject's waistband and placement in a recovery position was a substantial deviation, with justification, from Department-approved tactical training. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Additional Tactical Debrief Topics

Updating Status – Officer B broadcast “Code Six in the area” as they turned east. As the officers searched the area, they observed the Subject in the east/west alley. Officer B believed they were in the alley to the rear of the radio call location, where they had gone Code Six. Officer B added he/she did not broadcast they were contacting a possible suspect because he/she was focused on the Subject to determine if he was holding anything in his hands. An updated location was not broadcast until after the OIS had occurred. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

OIG Note: Code Six - Officer B did not update his/her location and did not broadcast that he/she and his/her partner were confronting a potential suspect. This would have provided additional information for responding units, who would have been alerted to a potential confrontation with a suspect and would have been able to respond to the situation more quickly.

Profanity – Officer B is heard on body worn video (BWV) using profanity as he/she ordered the Subject to drop the handgun. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Preservation of Evidence – After the OIS, Officer A retrieved the Subject's handgun from the ground and placed it in his/her rear right pants pocket prior to taking the Subject into custody. According to Officer A, he/she was concerned for the safety of the public and did not want a child or person to have possession of it. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Pistol drawn while making contact with suspect – Officer B held his/her service pistol in his/her right hand while attempting to get a firm grip of the Subject's wrist with his/her left hand. Officer B immediately holstered his/her pistol prior to conducting further contact with the Subject. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Bloodborne Pathogens – Officers A and B handcuffed the Subject without wearing gloves. Once he was handcuffed, officers continued to not wear gloves even though the Subject was bloody, as they waited for additional resources to respond. To enhance future performance, the Chief directed this be a topic of discussion during

the Tactical Debrief.

Command and Control

Sergeant A responded to the help call incident and declared himself the Incident Commander. He/she identified and separated the involved officers. Sergeant A initiated crime scene management, ensured an RA unit was requested, that aid was rendered, ensured canvassing was conducted and established a Command Post (CP). Sergeant A delegated the monitoring of Officer A to Sergeant B and the monitoring of Officer B to Sergeant C, additionally requesting for them to obtain a Public Safety Statement (PSS) from them. Sergeant B also recovered the Subject's replica handgun from Officer A.

The BOPC determined that the overall actions of Sergeants A, B, and C were consistent with Department training.

Tactical Debrief

In conducting an objective assessment of this case, the BOPC determined that the actions of Officers A and B were not a substantial deviation from Department-approved tactical training.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

Therefore, the Chief directed Officers A and B to attend a Tactical Debrief and the specific identified topics be discussed.

B. Drawing and Exhibiting

Officer A

According to Officer A, he/she exited the police vehicle and observed the Subject reach with his right hand and produce a handgun. Officer A further expressed the Subject still chose to arm himself even with the circumstances of him observing the marked black and white police vehicle and uniformed officers. Fearing for his/her and his/her partner's lives, and believing the Subject was going to shoot at them, Officer A unholstered his/her service pistol.

Officer B

Officer B exited the police vehicle and observed the Subject armed with a handgun. Officer B had a reasonable belief the situation could escalate to the use of deadly force and unholstered his/her service pistol.

The UOFRB assessed Officers A and B's drawing and exhibiting of their service pistols. The UOFRB noted the officers responded to a radio call involving a male waving a handgun around in an alley. Upon locating the Subject, the officers approached him in their police vehicle. As they stopped, Officers A and B observed the Subject produce a handgun.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B would reasonably believe there was a substantial risk the situation may escalate to where deadly force may be justified.

Therefore, the BOPC found Officer A and B's Drawing/Exhibiting to be In Policy, No Further Action.

C. Non-Lethal Use of Force

Officer A – Firm Grip, Physical Force, Bodyweight

Officer B – Firm Grip, Physical Force

As the Subject reached the mouth of the alley, he collapsed on the sidewalk facing the officers. Officer B approached the Subject at gunpoint and ordered him to turn around and show his hands. Officer B attempted to take the Subject into custody believing he was no longer armed. Furthermore, Officer B believed he/she was at an advantage due to his/her standing and the Subject being on the ground and that it would be easier for him/her to take him into custody. Officer B used both hands to grab the Subject's right arm. The Subject again pulled his arm back causing Officer B to lose his/her grip. As Officer B reacquired a grip on the Subject's right wrist with both hands, he/she was joined by Officer A, who moved to the Subject's left side. Officer A immediately grabbed the Subject's left arm with both hands, moved it behind his lower back, and ordered him multiple times to get on his stomach. In the ensuing 70 seconds, the Subject actively resisted the officers' efforts to handcuff him by pulling his arms away from them. Officers A and B repeatedly ordered the Subject to get on his stomach. The officers grabbed the Subject's arms and utilized a combination of firm grips and physical force to attempt to place him on his stomach; however, they were unable due to his resistance. Officer A utilized bodyweight by placing his/her left knee on the Subject's left hip and thigh.

At 07:06:55 hours, the officers placed the Subject's arms behind his lower back while he was in a seated position and Officer B completed handcuffing. Officer A applied firm grips to the Subject's left arm to handcuff him, but the Subject was bloody and slippery, making it hard to maintain a grip of his arms. Officer A also applied bodyweight to the Subject's left leg to prevent him from standing. Officer B applied firm grips to the Subject's right arm to handcuff him but he resisted by pulling his arm away from him/her. Eventually, the officers were able to overcome the Subject's resistance and handcuff him.

After the Subject was handcuffed, he continued to resist by lifting his buttocks off the ground and flailing his legs. In response to the Subject's actions, Officer A rolled him onto his stomach and applied bodyweight by placing his/her left knee on the back of the Subject's thighs. Officer A stated he/she did not feel safe placing the Subject into the recovery position or rendering medical aid until backup officers arrived as he was still actively resisting, kicking and trying to stand up.

The UOFRB assessed Officers A and B's use of non-lethal force. The UOFRB noted that while trying to take the Subject into custody, both Officers A and B used firm grips, physical force and bodyweight to place handcuffs on the Subject. In addition, Officer A used bodyweight after he/she placed the Subject on his stomach to maintain control while awaiting responding units. The UOFRB opined the force used by Officers A and B was proportional to the resistance of the Subject.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, in the same situation, would reasonably believe the use of non-lethal force was proportional and objectively reasonable.

Therefore, the BOPC found Officer A and B's Use of Non-Lethal Force to be In Policy, No Further Action.

D. Lethal Use of Force

Officer A – semiautomatic 9-Millimeter, fired two rounds in approximately 2.27 seconds, from approximately 27 feet.

Background – Upon inspecting the scene and relevant video evidence, FID investigators determined at the time of the OIS, Officer A stood behind the driver side ballistic door of his/her vehicle and the background of both rounds was metal fencing on the north side of the alley.

First Round

As Officer A drove west into the east/west alley, he/she stopped their vehicle approximately 19 feet from the Subject. Officer A explained he/she drove toward the Subject to get a better view of him and because he/she was concerned the Subject would have a lead if he decided to flee. Simultaneously, the Subject sat on a small white mattress on the north side of the alley. Despite the Subject being the only person in the alley, Officer A was unsure if he was the suspect because he was wearing a red shirt and the radio call described the suspect as being shirtless. Immediately upon sitting down, the Subject faced the officers, reached toward his right waistband with his right hand and produced a handgun. As that occurred, Officers A and B immediately exited their vehicle and unholstered their pistols. The officers stood behind their respective ballistic doors and used them as cover, while ordering the Subject to show his hands. The officers repeatedly ordered the Subject to drop the gun. The Subject briefly adjusted his grip of the handgun with his left

hand and held it in a reverse grip with the web of his right hand against the front strap. He rested his right elbow on his right knee and pointed the muzzle of the handgun to the west. The Subject then brought the handgun back to his lap. He again adjusted the handgun with his left hand and held the lower half of the grip between his right thumb and forefinger with the muzzle oriented away from him. While maintaining his grip, he raised the handgun to shoulder height and pointed the muzzle in Officer A's direction. He then immediately lowered it to meet with his left hand. With his elbow still resting on his knee as a pivot point, the Subject rotated his forearm from between his legs to outside of his right leg. As he did so, he again pointed the muzzle of the handgun in Officer A's direction. He then immediately lowered it and pointed the muzzle toward the ground between his feet. Simultaneously, Officer A retrieved his/her hand-held radio and requested a backup.

While Officer A was broadcasting, the Subject moved the handgun behind his right knee, and acquired a full pistol grip with the web of his right hand against the tang. The Subject then placed his left hand on the mattress to brace himself and began to stand, while bringing the muzzle of the handgun forward with his right palm facing down. As that occurred, Officer A ordered the Subject to get on the ground. As the Subject stood, he began to raise the handgun while rotating his right palm upward and extending his arms out away from his body. In fear that the Subject was going to shoot him/her or his/her partner, Officer A aimed his/her service pistol at the Subject's stomach area and fired one round.

Second Round

Officer A assessed after firing his/her first round and observed the Subject fall to a seated position on the mattress. The Subject raised his upper torso off the ground and shifted his weight to his left hip. Simultaneously, the Subject moved the handgun across his torso from right to left and, while doing so, pointed it in the direction of Officers A and B, respectively. He then rotated his right wrist and pointed the muzzle of the handgun behind and above his left shoulder. According to Officer A, he/she observed the Subject again point the handgun at him/her. In fear that the Subject would shoot her, Officer A aimed his/her service pistol at the Subject's torso and fired a second round. The round struck the Subject in the right upper arm. The officers continued to order the Subject to drop the handgun and moments later, the Subject tossed the handgun between the mattress and a metal gate.

The UOFRB assessed Officers A's use of lethal force. The UOFRB noted the officers were responding to a radio call of an ADW suspect waving a handgun around in an alley. After locating the Subject in the alley, he produced a handgun. After numerous commands to drop the handgun, the Subject chose not to follow commands but rather to stand up and motion the handgun in Officer A's direction, leading Officer A to discharge his/her first round. After falling down onto the mattress, the Subject again pointed the handgun at Officer A, leading him/her to discharge his/her second round. The UOFRB noted both rounds were discharged in

just over two seconds. The UOFRB opined Officer A's perception of his/her life being in danger was reasonable. The UOFRB noted the FID investigation determined the Subject's handgun was actually a replica handgun; however, they opined the replica handgun resembled a real handgun.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would reasonably believe the use of lethal force was proportional, objectively reasonable and necessary.

Therefore, the BOPC found Officer A's Use of Lethal Force to be In Policy, No Further Action.

Medical Treatment/Rendering Aid

At 07:06:55 hours, the officers placed the Subject's arms behind his lower back while he was in a seated position and Officer B completed handcuffing. The Subject continued to resist by lifting his buttocks off the ground and flailing his legs. In response to the Subject's actions, Officer A rolled him onto his stomach and applied bodyweight by placing his/her left knee on the back of the Subject's thighs. Officer A stated he/she did not feel safe placing the Subject into the recovery position or rendering medical aid until backup officers arrived because he was still actively resisting, kicking and trying to stand up. Officer J relieved Officer A and placed the Subject in a right lateral recovery position with the assistance of Officer K. Officers J and K checked the Subject for injuries and determined his wounds were on the right side of his body. The officers turned the Subject to his left side and observed gunshot wounds to his right hip and right arm. According to Officers J and K, they assessed the Subject and determined he was alert, did not appear to be in pain and was not having difficulty breathing. Officer J noted the Subject was bleeding but described him as not being in "immediate danger." Officer K also noted the Subject was bleeding but described it as "not much." Based on the Subject's condition, neither officer believed there was a need for them to render further medical aid.

At 0714 hours, approximately 10 minutes after the OIS, the LAFD RA arrived at scene and medically assessed the Subject. During their assessment, the Subject was alert, oriented, had stable vitals and his gunshot wounds had either stopped or were slowly bleeding. At 0724 hours, the RA transported Saucedo to the hospital, where he was treated by a doctor. The Subject was treated for six penetrating wounds to the right (upper) arm, axilla (armpit), mid back, right groin and hip.

The Subject tested positive for Amphetamines, Benzodiazepines, Cannabinoids and Fentanyl. He was treated, cleared for booking and released from the hospital approximately seven hours later.

Officer K did not have immediate access to personal protective equipment (gloves) and waited approximately two minutes after taking custody of the Subject from

Officer A. This prevented Officer K from effectively assisting his/her partner in holding the Subject in the recovery position, assessing the extent of his injuries, providing medical aid, and searching him.

Requirement to Intercede

Based on their review of this incident, the BOPC determined that the force used was not clearly beyond that which was necessary, as determined by an objectively reasonable officer under the circumstances, and the officers did not deviate from the requirement to intercede.

Additional/Equipment

Required Equipment – Officer B's baton and Officer A's hobble restraint device were left inside their police vehicle. As this issue was addressed at the divisional level via Divisional Training and a Supervisory Action Item (SAI), with Operations South Bureau (OSB) and Office of Operations (OO) concurrence, the Chief deemed that no further action was necessary.

Approved Ammunition – After a post-incident examination of Officer A's pistol, it was determined his/her first magazine contained 15 rounds and there was one round the pistol's chamber. One of the rounds in the magazine contained an unauthorized round. The remaining rounds in the magazine were Department-approved. All personnel are to ensure each of their weapons and magazines are loaded with only Department approved ammunition. As this issue was addressed at the divisional level via Divisional Training and a SAI, with OSB and OO concurrence, the Chief deemed that no further action was necessary.